

**REMARKS**

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-7, 9-16 and 18-26 are pending in the present application. Claims 1, 2, 4, 6 and 15 have been amended, claims 8 and 17 have been canceled and claims 21-26 have been added by the present amendment.

In the outstanding Office Action, the previous Restriction Requirement was withdrawn; claims 1-20 were rejected on the ground of nonstatutory obviousness-type double patenting as unpatentable over claims 1-20 of U.S. Patent No. 6,701,059; and claims 6-20 were rejected under 35 U.S.C. § 102(a) as anticipated by the admitted prior art and Figs. 1-3 of the present application (AAPA).

Regarding the double patenting rejection, enclosed is a Terminal Disclaimer to overcome this rejection.

Claims 6-20 stand rejected under 35 U.S.C. § 102(a) as anticipated by AAPA. This rejection is respectfully traversed.

Amended independent claim 6 includes a combination of features and is directed to a method for recording digital data, comprising receiving, via a receiver, user digital data from an external source in response to a user request or selection, the user digital data being divided into digital data units; recording, via a recorder, the received digital data units sequentially in a predetermined recording unit of a recording medium; calculating, via a control unit, a number of the digital data units recorded in the predetermined recording unit that have at least a first byte located in the predetermined recording unit and a start position of a first recorded digital data unit recorded in the predetermined recording unit, said number of the digital data units and the start position of the first recorded digital data unit being variable and not fixed; and recording, via the recorder, the number of digital data units and the start position of the first recorded digital data unit. Independent claim 15 includes similar features in a varying scope.

These features are supported at least by the non-limiting example shown in Figs. 5 and 6 and described in the corresponding description in the specification. For example, Figs. 5 and 6 illustrate the user digital data being divided into digital data units (TSP1...TSP9 in sector M-1),

recording, via a recorder, the received digital data units sequentially in a predetermined recording unit of a recording medium (sector M-1 including TSP1...TSP9), and calculating, via control unit, a number of the digital data units recorded in the predetermined recording unit that have at least a first byte located in the predetermined recording unit and a start position of a first recorded digital data unit recorded in the predetermined recording unit (note that in the sector M-1, the number of digital data units recorded in the predetermined recording unit having at least a first byte in the recording unit is 10). Further, as shown in Fig. 5, the number of the digital data units (TSPs) and the start position of the first recorded digital data unit (TSP1) is variable and not fixed.

On the contrary, as shown in Fig. 4 of AAPA, the number of transport packets (TSP) in a sector are fixed. Further, as shown in Fig. 4 of the AAPA, the start position of the first transport packet is always recorded at the same position and is not variable. That is, in AAPA of Fig. 4, a number of transport packets is always 10 (fixed) and then padding is added to the end of the transport packet number 10 to fill in the rest of the sector M. Thus, the number of transport packets and a start position of the first transport packet is always fixed and is not variable.

Accordingly, it is respectfully submitted independent claims 6 and 15 and each of the claims depending therefrom are allowable.

In addition, new dependent claims 21-26 have been added to set forth the invention in a varying scope, and Applicants respectfully submit the new claims are supported by the originally-filed specification. In particular, new dependent claim 21 and 22 clarify that a last byte of a last digital data unit in the predetermined recording medium is in a next predetermined recording unit when the last digital data unit is recorded across the predetermined recording unit and the next predetermined recording unit. New claims 23-26 are similar to claims 15, 16, 18 and 22, but are recording medium claims. It is respectfully submitted the new claims are also allowable.

In addition, allowed claims 1 and 6 have been amended to be tied to a particular machine as required by the recent Bilksi case.

**CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact David A. Bilodeau Reg. No. 42,325 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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